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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/797,547

Filing Date: March 10, 2004

Appellant(s): MCNALLY ET AL.

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Joseph C. Kirincich  
Reg. No. 38,645  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 9/10/2007 appealing from the Office action mailed 4/13/2007.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

2004/0204085                    Vargas                    10-2004

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Vargas (2004/0204085).

As to claim 1, Vargas discloses a system for recovering electronic documents archived in a data storage mechanism comprising:

a computer connected with said data storage mechanism, where the computer retrieves a stored data file comprising electronic document data information and further wherein the retrieved stored data file is analyzed based on file content and file characteristics, and categorized into one or more of a plurality of distinct categories (Page 6, ¶0072, lines 10-18 & ¶0073 lines 1-4 & ¶0075 lines 1-4).

As to claim 2, Vargas discloses the system of claim 1, wherein the computer is connected via a network connection to the data storage mechanism (Figure 1, Page 2, ¶0029, lines 8-16).

As to claim 3, Vargas discloses the system of claim 1, wherein the computer is connected via a wireless network connection to the data storage mechanism (Figure 1, Page 2, ¶0029, lines 8-16).

As to claim 4, Vargas discloses the system of claim 1, wherein the further data storage mechanism is a hard drive (Page 3, ¶0035, lines 12-16).

As to claim 5, Vargas discloses the system of claim 1, wherein the further data storage mechanism is a tape drive (Page 3, ¶0035, lines 12-16).

As to claim 6, Vargas discloses the system of claim 1, wherein the further data storage mechanism is a DVD (Page 3, ¶0035, lines 12-16).

As to claim 7, Vargas discloses the system of claim 1, wherein the further data storage mechanism is a CD-ROM (Page 3, ¶0035, lines 12-16).

As to claim 8, Vargas discloses a method for recovering electronic documents archived in a data storage mechanism comprising the steps of:

providing a computer with access to said data storage mechanism (Figure 1, Page 6, ¶0072, lines 1-5);

retrieving a stored data file comprising original electronic document data information from the data storage mechanism (Page 6, ¶0072, lines 10-18); and

further analyzing the retrieved stored data file based on file content and file characteristics, and categorizing into one or more of a plurality of distinct categories (Page 6, ¶0073 lines 1-4 & ¶0075 lines 1-4).

As to claim 9, Vargas discloses the method of claim 8, wherein the computer is connected via a network connection to the data storage mechanism (Figure 1, Page 2, ¶0029, lines 8-16).

As to claim 10, Vargas discloses the method of claim 8, wherein the computer is connected via a wireless network connection to the data storage mechanism (Figure 1, Page 2, ¶0029, lines 8-16).

As to claim 11, Vargas discloses the method of claim 8, wherein the further data storage mechanism is a hard drive (Page 3, ¶0035, lines 12-16).

As to claim 12, Vargas discloses the method of claim 8, wherein the further data storage mechanism is a tape drive (Page 3, ¶0035, lines 12-16).

As to claim 13, Vargas discloses the method of claim 8, wherein the further data storage mechanism is a DVD (Page 3, ¶0035, lines 12-16).

As to claim 14, Vargas discloses the method of claim 8, wherein the further data storage mechanism is a CD-ROM (Page 3, ¶0035, lines 12-16).

As to claim 15, Vargas discloses the system of claim 1 wherein the stored data file is analyzed using the file's last modified date, file size or MD5 hash value (Page 6, ¶0070).

As to claim 16, Vargas discloses the method of claim 8 wherein said step of analyzing using the file's last modified date, file size or MD5 hash value (Page 6, ¶0070).

As to claim 17, Vargas discloses a method for recovering electronic documents archived in a data storage mechanism comprising the steps of:

providing a computer with access to said data storage mechanism (Figure 1, Page 6, ¶0072, lines 1-5);

retrieving a stored data file comprising electronic document data information from the data storage mechanism (Page 6, ¶0072, lines 10-18);

analyzing the retrieved stored data file based on file content and file characteristics (Page 6, ¶0073, lines 1-4);

categorizing into one or more of a plurality of distinct categories (Page 6, ¶0075, lines 1-4); and

comparing said stored data file to detect deletions or modifications (Page 6, ¶0073, lines 1-4).

As to claim 18, Vargas discloses the method of claim 17 wherein said step of analyzing using the file's last modified date, file size or MD5 hash value (Page 6, ¶0070).

As to claim 19, Vargas discloses the system of claim 1 further comprising a comparison of said stored data files to detect deletions or modifications (Page 6, ¶0073, lines 1-4).

As to claim 20, Vargas discloses the method of claim 8 further comprising a comparison of said stored data files to detect deletions or modifications (Page 6, ¶0073, lines 1-4).

#### **(10) Response to Argument**

On pages 10-11 of the Appeal Brief, appellant argues limitations of independent claims 1,8 and 17 shown below:

Independent claim 1 recites:

A system for recovering electronic documents archived in a data storage mechanism comprising: a computer connected with said data storage mechanism, where the computer retrieves a stored data file comprising electronic document data information and further wherein the retrieved stored data file is analyzed based on file content and file characteristics, and categorized into one or more of a plurality of distinct categories. (emphasis added)

The underlined portion of independent claim 1 identifies a major distinction between the presently claimed invention and Vargas. Similarly, independent claim 8 recites "analyzing the retrieved stored data file based on file content and file characteristics, and categorizing into one or more of a plurality of distinct categories." And, independent claim 17 recites "analyzing the retrieved stored data file based on file content and file characteristics; a plurality of distinct categories;"

The Vargas reference relied upon by the Examiner does not teach these underlined elements of the claimed invention, and more specifically does not analyzing for the purpose of categorizing to distinguish between a plurality of categories as is understood by one of ordinary skill in the art reading the claim language in light of the specification. To the contrary, Vargas is directed data synchronization between a mobile device and a computing device over a wireless link without categorizing. Vargas' synchronization is merely intended to ensure that the wireless device and computing device have the same data and are aligned properly.

The examiner respectfully disagrees. Vargas discloses each file having a handle which uniquely identifies an object (Page 6, ¶0068, lines 1-3). The handle can include a time stamp and a version number (a version number is based directly to the file contents of a specific file). This information can be used when categorizing the files (Page 6, ¶0070). The synchronization manager 750 maintains/analyzes the handles corresponding to the plurality of objects (Page 6, ¶0065, lines 1-4). Vargas discloses three categories: added, deleted or modified (Page 6, ¶0070 & ¶0075, lines 1-4). Appellant discloses categories of deleted, modified and missing on page 8, lines 1-7 of the appeal brief. Even though appellant does not claim these specific categories Vargas discloses equivalent categories.

On pages 11-12 of the Appeal Brief, appellant argues limitations shown below:

Vargas' synchronization is consistent with the way "Synchronize" is defined in Webster's New World College Dictionary, 4th Edition, as:

1. to cause to agree in time or rate of speed: regulate (clocks, a flash gun and camera shutter, etc.) so as to make synchronous;
2. to assign (events, etc.) to the same date or period: represent as or show to be coincident or simultaneous;
3. film to align (the picture and soundtrack).

The synchronization process as described by Vargas is used to align data

to make two devices have the same information. This is extremely different from the analyzing and categorizing claimed by the present invention.

The Vargas synchronization operations are scheduled based on a predetermined subset of user actions, and involve a mapping between instances of objects stored in object stores. These objects are identified by handles. Paragraph 0064 of Vargas describes these handles and objects as follows:

[0064] Synchronization manager 748 manipulates reference store 750 to maintain a mapping between instances of objects stored in object stores 32 and 34 on computing device 14 and instances of the same objects stored in object stores 20 and 22 on mobile device 12. Objects are identified by handles which are created by providers 752 and 754. The handles are opaque to synchronization manager 748, in that synchronization manager 748 need not be concerned with the actual composition of the handles although the handles are manipulated and stored by synchronization manager 748. (emphasis added).

Having handles in Vargas that are opaque (i.e. not transparent; hard to understand), so the synchronization manager need not be concerned with the actual composition of the handles, teaches away from what is claimed in the present invention. It is these handles in Vargas that are compared to determine if synchronization is necessary, not the underlying data or objects (that comprise a plurality of fields or properties related to PIM's), such as the presently claimed metadata.

The examiner respectfully disagrees. The examiner fails to see the relevance of the Webster's New World College Dictionary definition of synchronize. It is clear that Vargas disclosure has nothing to do with a camera shutter, assigning events to periods of time, or even aligning a picture with a soundtrack. Examiner will point out very simply that Vargas discloses the synchronization as data synchronization between a mobile device and a computing device (Abstract, lines 1-2). The handles can include a time stamp and a version number. This information is used when categorizing the files (Page 6, ¶0070). Vargas is comparing these handles to determine if synchronization is

necessary but Vargas is also doing this to determine if any of the files are being added, deleted or modified (Page 6, ¶0075, lines 1-4). The handles Vargas discloses have the plurality of fields; an object identifier, an ID number, a pathname, a time stamp and version number (Page 6, ¶0068, lines 1-3 & ¶0070) which all correlate to the specific files being synchronized. These fields do read on appellants metadata, but examiner would like to point out that the metadata is not "presently claimed".

On pages 12-13 of the Appeal Brief, appellant argues limitations shown below:

In fact, Vargas sets forth in paragraphs 0067 - 0070 various possibilities on how to format the handles that are compared by the synchronization manager, and states that formatting handles via their path names is problematic. Those paragraphs state as follows:

[0067] The handles stored in reference store 750 may be formatted in accordance with the following criteria so that synchronization providers and 752 and 754 can perform the specified functions:

[0068] (a) Each handle may contain data that uniquely identifies an object - such an object identifier, an ID number, a full pathname for a file system object, etc. This data may be persistent (in that it does not change for a particular object) and should not be reused for subsequently created objects. This data can be compared to determine whether two handles actually correspond to the same object. As is discussed below, this can be problematic for file system information, because the object identifier is typically the pathname and can be changed simply by renaming the file.

[0069] (b) It may be possible to derive some object order based on the handle

[0070] The handle may have some sort of time stamp information, or version number. This information can be compared to determine whether an object has changed since the last handle was recorded in reference store 750. (emphasis added)

Instead of comparing the metadata (which is considered problematic in Vargas) and as is claimed in the present invention, Vargas teaches comparing time stamp information, or version number. This does not teach the present invention.

The examiner respectfully disagrees. appellant discloses on page 4 of the Appeal Brief: "Metadata is commonly described as "data about data" or data that tracks the history of an electronic document". Appellant then goes on to list metadata on page 14 of the Appeal Brief as: Server path (starting location of the data), Folder (file path), Name (full file name), Create (data/time), Modify (date/time), Access (date/time), Size and MD5 hash value. The examiner fails to comprehend how the appellant dismisses the fact that the time stamps or version numbers are metadata. The appellant then states on page 14 of the Appeal Brief that "This metadata is then used to determine whether substantive modifications or deletions were made to a file." Vargas is doing exactly the same thing, with the same motivation of determining what modifications or deletions were made (Page 6, ¶0070 & ¶0073, lines 1-4 & ¶0075, lines 1-4). Examiner would again like to note that appellant did and does not claim "metadata", Vargas does though disclose the definitive features of metadata which appellant relies on.

On pages 12-13 of the Appeal Brief, appellant argues limitations shown below:

Once Vargas determines that these opaque handles are changed, the system in Vargas arranges to have the objects exchanged without reference to their content and without categorizing. This process is explained in Vargas at paragraph 0082, which states:

[0082] In order to exchange objects with mobile device 12, synchronization manager 748 continually calls the method IReplObjHandler:GetPacket to have

an appropriate provider 752 or 754 obtain a packet of information to be transmitted to mobile device 12. To handle a packet received from mobile device 12, synchronization manager 748 calls I ReplObjHandler::SetPacket. This acts to provide a packet of information received from mobile device 12 to a synchronization provider 754 for storage on its associated object store. Similar interfaces are called by synchronization manager 740 on mobile device 12.

This Vargas synchronization process does not teach Appellants' process of analyzing and categorizing.

The examiner respectfully disagrees. After the analizing and comparing the handles the synchronization manager 748 determines whether any objects have been added, deleted or modified (Page 6, ¶00075, lines 1-4). Added, deleted and modified are the three distinct categories that Vargas discloses.

#### **(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Charles Ehne

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